

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA**

<b>CLEVELAND JENNINGS,</b>	)	
	)	
<b>Plaintiff</b>	)	<b>CIVIL ACTION NO:</b>
	)	
<b>v.</b>	)	
	)	
<b>CITY OF TUSCALOOSA</b>	)	
	)	
<b>Defendant.</b>	)	<b>Jury Trial Requested</b>

**COMPLAINT**

**I. JURISDICTION**

1. This is a suit authorized and instituted pursuant to the Acts of Congress known as Title VII of "The Civil Rights Act of 1964," 42 U.S.C. § 2000e et seq., as amended by the Civil Rights Act of 1991, the "Civil Rights Act of 1866"-42 U.S.C. § 1981, 42 U.S.C. § 1983, "the Age Discrimination in Employment Act," as amended, 29 U.S.C. § 621. et seq., and "the Alabama Age Discrimination in Employment Act" Code of Alabama § 25-1-22 et. seq.

2. Plaintiff, Cleveland Jennings (hereinafter "Jennings" or "Plaintiff"), is an individual who seeks declaratory, injunctive, and other relief to redress deprivation by Defendant of his right to be free of discriminatory employment practices.

3. The discriminatory employment actions complained of herein were committed, in the State of Alabama and the County of Tuscaloosa.

## **II. ADMINISTRATIVE EXHAUSTION**

4. Plaintiff Jennings filed a Charge of Discrimination (420-2012-02587) with the Equal Employment Opportunity Commission (hereinafter "EEOC") against the Defendant, City of Tuscaloosa (hereinafter "City") within 180-days of the last discriminatory act.

5. On February 7, 2013, the EEOC issued a "Dismissal and Notice of Right to Sue" to Jennings and he is filing this lawsuit less than ninety (90) days after receiving his Notice of Right to Sue.

## **III. PARTIES**

6. Plaintiff, Jennings, is a citizen of the United States over the age of 19 and a resident of the State of Alabama. Plaintiff is over the age of forty (40).

7. Defendant, City of Tuscaloosa, is an entity subject to suit under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq. as amended by the Civil Rights Act of 1991, the "Civil Rights Act of 1866"-42 U.S.C. § 1981, 42 U.S.C. § 1983, the "Age Discrimination in Employment Act," as amended, 29 U.S.C. § 621, et seq. and the Alabama Age Discrimination in Employment Act Code of Alabama § 25-1 et. seq. Defendant employs more than fifteen employees.

## **IV. STATEMENT OF FACTS**

8. The Plaintiff re-alleges and incorporates by reference paragraphs 1-7

above with the same force and effect as if fully set out in specific detail herein below.

9. Plaintiff is a forty-three (43) year old African-American male. Plaintiff began his employment with the Defendant in December, 1989 as an Environmental Services-Laborer/Garbage Collector.

10. In April 2012, Plaintiff applied for and received the job of Senior Operator-a driving job. After working as a Senior Operator for about six (6) weeks, Plaintiff was informed that based on DUI convictions he received in 1993 and 2006, he would be disqualified from the Senior Operator position.

11. Upon information and belief, there are similarly situated white drivers under forty (40) years of age who have DUI convictions and/or have failed drug screens but who are not permanently removed from their positions.

12. The Defendant's DUI policy as enforced has a disparate impact on African-Americans and employees over the age of forty (40).

## **V. COUNTS**

### **A. RACE DISCRIMINATION TITLE VII, 42 U.S.C. § 1981, and 42 U.S.C. § 1983**

13. The Plaintiff re-alleges and incorporates by reference paragraphs 1-12 above with the same force and effect as if fully set out in specific detail hereinbelow.

14. Plaintiff was subjected to unequal treatment regarding his employment

because of his race, African-American. Defendant discriminated against the Plaintiff on the basis of his race in the terms and conditions of employment.

15. As a direct consequence of Defendant's discriminatory actions, Plaintiff has suffered loss of income and employment benefits, loss of prestige and opportunity for advancement, embarrassment, humiliation, severe mental anguish, and emotional pain and distress.

**B. AGE DISCRIMINATION IN EMPLOYMENT ACT**  
**29 U.S.C. § 621. et seq.**

16. The Plaintiff re-alleges and incorporates by reference paragraphs 1-15 above with the same force and effect as if fully set out in specific detail hereinbelow.

17. Plaintiff was subjected to unequal treatment regarding his employment because of his age. Defendant discriminates on the basis of age in the terms and conditions of employment.

18. As a direct consequence of Defendant's discriminatory actions, Plaintiff has suffered loss of income and employment benefits, loss of prestige and opportunity for advancement, embarrassment, humiliation, severe mental anguish, and emotional pain and distress.

**C. ALABAMA AGE DISCRIMINATION  
IN EMPLOYMENT ACT  
ALABAMA CODE § 25-1-22 et. seq**

19. The Plaintiff re-alleges and incorporates by reference paragraphs 1-18 above with the same force and effect as if fully set out in specific detail hereinbelow.

20. Plaintiff was subjected to unequal treatment regarding his employment because of his age. Defendant discriminates on the basis of age in the terms and conditions of employment.

21. As a direct consequence of Defendant's discriminatory actions, Plaintiff has suffered loss of income and employment benefits, loss of prestige and opportunity for advancement, embarrassment, humiliation, severe mental anguish, and emotional pain and distress.

**D. DISPARATE IMPACT DISCRIMINATION  
IN VIOLATION OF TITLE VII AND ADEA**

22. The Plaintiff re-alleges and incorporates by reference paragraphs 1-21 above with the same force and effect as if fully set out in specific detail hereinbelow.

23. The Defendant has discriminated against the Plaintiff with regards to selection decisions, in violation of Title VII of the Civil Rights Act of 1964, Title 42 U.S.C. § 2000e et seq., as amended by the Civil Rights Act of 1991 and the ADEA.

24. Specifically, Defendant's selection decisions regarding disqualification

had a disparate impact against African-Americans and individuals over the age of forty (40) in violation of 42 U.S.C. §2000e-2(k).

25. Plaintiff has been impacted by the aforementioned selection decisions and is entitled to all equitable remedies available under § 2000e-2(k).

## **VI. PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff respectfully prays that this Court:

1. Issue a declaratory judgment that the Defendant's acts, policies, practices, and procedures complained of herein have violated and continue to violate the rights of the Plaintiff as secured by Title VII, 42 U.S.C. § 1981, 42 U.S.C. § 1983, the Age Discrimination in Employment Act, as amended, 29 U.S.C. Section 621, et seq. and the Alabama Age Discrimination in Employment Act Code of Alabama § 25-1-22;

2. Grant the Plaintiff a permanent injunction enjoining the Defendant, its agents, successors, employees, attorneys and those acting in concert with the Defendant and at the Defendant's request from continuing to violate the Plaintiffs rights;.

3. Enter an Order requiring the Defendant to make the Plaintiff whole by granting his appropriate declaratory and injunctive relief, and back-pay, (plus interest), as well as nominal and/or compensatory, punitive damages, liquidated

damages, and other benefits of employment.

4. The Plaintiff further prays for such other relief and benefits as the cause of justice may require, including but not limited to, an award of costs, attorney's fees and expenses.

Respectfully submitted,

/s/Roderick T. Cooks  
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